

**EMINENT DOMAIN MODIFICATIONS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Craig A. Frank**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill provides that litigation expenses shall be awarded in condemnation actions where the final award exceeds the written offer by 5%.

**Highlighted Provisions:**

This bill:

- defines "litigation expenses";
- provides that litigation expenses shall be awarded to the property owner if the final award amount exceeds the written offer by 5%; and
- specifies who determines the amount of litigation expenses.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**78B-6-523**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78B-6-523** is enacted to read:

**78B-6-523.** Costs and fees.



28        (1) As used in this section, "litigation expenses" means the sum of the costs,  
29 disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees  
30 necessary to prepare for or participate in actual or anticipated condemnation proceedings or  
31 dispute resolution.

32        (2) The property owner shall be awarded reasonable litigation expenses if the  
33 compensation determined by the court or through dispute resolution exceeds by 5% or more the  
34 final written offer tendered by the condemnor before the complaint is filed or dispute resolution  
35 commenced.

36        (3) Reasonable litigation expenses shall be determined by:

37        (a) the arbitrator, if the amount of compensation was determined through arbitration; or

38        (b) the court, if the amount of compensation was determined by:

39        (i) litigation; or

40        (ii) mediation, and the parties cannot agree on an amount.

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**Legislative Review Note**  
**as of 2-12-09 11:07 AM**

**Office of Legislative Research and General Counsel**

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## H.B. 414 - Eminent Domain Modifications

### Fiscal Note

2009 General Session

State of Utah

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#### State Impact

Provisions of this bill are estimated to increase annual expenditures by the Department of Transportation by an average of \$4,515,000 from the Transportation Fund.

	<u>2009 Approp.</u>	<u>2010 Approp.</u>	<u>2011 Approp.</u>	<u>2009 Revenue</u>	<u>2010 Revenue</u>	<u>2011 Revenue</u>
Transportation Fund	\$0	\$4,515,000	\$4,515,000	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$4,515,000</b>	<b>\$4,515,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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#### Individual, Business and/or Local Impact

Local governments could have increased expenses as they exercise eminent domain proceedings and are subject to provisions of this bill.